

ATTACHMENT A
Remarks

Claims 1-3, 8, 10 and 11 are pending in the present application. By this Amendment, Applicant has amended claims 1, 8, 10 and 11 and canceled claims 4-7, 9 and 12-14. Applicant respectfully submits that the present application is in condition for allowance based on the discussion which follows.

Claims 7-12 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. By this Amendment, Applicant has canceled claims 7, 9 and 12, thereby rendering the rejection to these claims moot. With regard to claims 8, 10 and 11, by this Amendment, Applicant has amended these claims to be in a more conventional U.S. method claim form and in accordance with the requirements of 35 U.S.C. § 101. Accordingly, Applicant respectfully requests that the rejection to claims 8, 10 and 11 be withdrawn in view of the claim amendments.

Claims 5, 7-11 and 12 were rejected under 35 U.S.C. § 112, first paragraph. The Examiner alleged that the specification does not enable a person skilled in the art to which it pertains to practice the invention commensurate in scope with the claims previously presented. The Examiner also alleged that undue experimentation would be required to practice the invention as claimed. The Examiner does acknowledge that the specification is enabling for reducing the risk of cancer and reducing inflammation, although the Examiner alleged that the method does not provide enablement for the prevention of cancer or the prevention of inflammation.

By this Amendment, Applicant has amended the claims to be directed to a method of treating a subject suffering from or at risk of cancer. One of ordinary skill in the art would understand that the recited treatment of a subject suffering from or at risk

of cancer includes a reduction in risk, preventing the occurrence of, or reducing the risk of developing cancer, and increasing survivorship. Thus, one of ordinary skill in the art would understand that the present treatment method is not an absolute, infinite guarantee of the elimination or nonoccurrence of cancer, but a treatment which includes the reduction in reoccurrence of cancer for a finite period of time. Accordingly, Applicant respectfully submits that the claims are fully enabled with regard to the present treatment.

Furthermore, Applicant respectfully submits that the presently claimed method is fully enabled and that a sufficient written description is provided in the specification as filed for one of ordinary skill in the art to practice the invention, as claimed, which is directed to the treatment of three specific types of cancer, where the specification contains both *in vivo* and *in vitro* evidence of cancer prevention activity of the present pharmaceutical composition and, accordingly, a treatment of a subject at risk of or suffering from cancer.

Further, the specification contains an experimental section headed "Tumour-Preventive Effects of MPCB," starting at the bottom of page 13. The conclusion, stated on page 15 in lines 3 to 4 is that "the ethanol extract of MPCB could prevent and retard the development of tumor."

Furthermore, the paragraph on page 15 in lines 5 to 14 refers to the demonstrated reduction in CD11b⁺ cells. Lines 7 to 11 state "CD11b⁺ cells are known to produce peroxide radicals that associate with tumor promotion. Hence, the reduction in CD11b⁺ cells would support the observation that MPCB could prevent the development of human cancer in SCID mice." Although the passage on page 15,

lines 3 to 4 describes the conclusion of experiments which specifically used lung cancer cells, the experiments described on page 15, lines 7 to 11 are not limited to the use of lung cancer cells. The described mechanism of action, involving the CD11b⁺ cells, are relevant to prevention of other types of cancer.

In addition, the Examiner cites excerpts from a couple of popular health websites. The excerpt from the CNN.com website refers to various factors for reducing the risk of cancer, such as not using tobacco and eating a variety of healthy foods. Clearly, the excerpt list is not to be regarded as a definitive list of all cancer-preventive measures. Moreover, it is respectfully submitted that the Examiner is incorrect to conclude from the CNN.com excerpt that "the art teaches that cancer prevention requires a variety of diet and lifestyle changes." In fact, although the CNN.com reference suggests that "six steps" disclosed may be useful in the prevention of cancer, the CNN.com reference certainly does not teach that these are the only things that can be useful in the prevention of cancer.

Based on the foregoing, Applicant respectfully submits that claims 8, 10 and 11 are in compliance with the requirements of 35 U.S.C. § 112, first paragraph.

Claims 6-12 and 14 were rejected under 35 U.S.C. § 112, second paragraph. By this Amendment, Applicant has canceled claims 6, 7, 9 and 12-14, rendering the rejection to these claims moot, and amended claims 8, 10 and 11, thereby obviating the rejection to claims 8, 10 and 11.

Claims 7-12 were rejected under 35 U.S.C. § 101 and 35 U.S.C. § 112, second paragraph, for being in the form of use claims. By this Amendment, Applicant has

canceled claims 7 and 9 and amended claims 8, 10 and 11 to conform with more conventional U.S. method claim form.

Claims 1, 2 and 4-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2001/0018076 ("the '076 publication"). By this Amendment, claim 1 (currently amended) is now specifically directed to a treatment and prevention of specific cancers not disclosed in this reference, in accordance with the Examiner's analysis, as stated in the third paragraph of section (7) of the Office Action: "The ['076 publication] does not specifically teach that the composition is able to treat breast cancer, liver cancer and melanoma."

Based on the foregoing, Applicant respectfully requests that the rejection to claims 1, 2 and 8, 10 and 11 are not anticipated by the '076 publication.

Claims 1 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the '076 publication. As discussed above, claim 1 (currently amended) and claim 3, dependent therefrom, are not obvious in view of the '076 publication.

In view of the foregoing, Applicant respectfully submits that the present application is in condition for allowance.

END REMARKS